

AF 90

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/784,730
Filing Date	February 15, 2001
First Named Inventor	Miyazaki
Art Unit	2141
Examiner Name	Bayard, D.
Attorney Docket Number	50N3692.01/1567

### ENCLOSURES (Check all that apply)

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input checked="" type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify<br>below):<br>Postcard, Credit Card Form |
|--|--|---|

Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Redwood Patent Law		
Signature			
Printed name	Gregory J. Koerner		
Date	8/8/06	Reg. No.	38,519

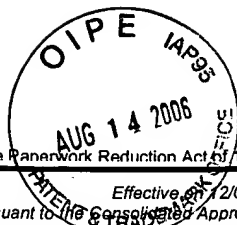
### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Gregory J. Koerner	Date	8/10/06

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**  
**For FY 2005**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

**Complete if Known**

Application Number	09/784,730
Filing Date	February 15, 2001
First Named Inventor	Miyazaki
Examiner Name	Bayard, D.
Art Unit	2141
Attorney Docket No.	50N3692.01/1567

**METHOD OF PAYMENT** (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_☒ Deposit Account Deposit Account Number: 50-3367 Deposit Account Name: Redwood Patent Law

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 20 or HP =	x	=	

HP = highest number of total claims paid for, if greater than 20.

<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 3 or HP =	x	=	

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 100 =	/ 50 =	(round up to a whole number) x	=	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief Filing Fee**Fees Paid (\$)**

\$500.00

**SUBMITTED BY**

Signature		Registration No. 38,519 (Attorney/Agent)	Telephone 650-358-4000
Name (Print/Type)	Gregory J. Koerner	Date	8/3/06

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.




**IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT(S): Miyazaki et al.  
SERIAL NO.: 09/784,730  
FILED: February 15, 2001  
TITLE: System And Method For Efficiently Performing  
Data Transfer Operations  
EXAMINER: Bayard, D.  
ART UNIT: 2141  
ATTY DKT NO: 50N3692.01/1567

---

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date printed below:

Dated: 8/10/06   
Gregory J. Koerner

---

**APPEAL BRIEF**

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

The following Appeal Brief is submitted in an appeal from the Final Office  
Action of March 20, 2006 in the above-referenced Patent Application.

(1) Real parties in interest

The real parties in interest in the above-referenced patent application are Sony Corporation, a Japanese corporation with offices in Tokyo, Japan, and Sony Electronics Inc., a Delaware corporation with offices in New Jersey.

(2) Related appeals and interferences

To the present knowledge of Appellants' legal representative, there are currently no related appeals or interference proceedings in progress which will directly affect, or be directly affected by, or have a bearing on the Board's decision in the present Appeal.

(3) Status of Claims

Claim 41 stands rejected under 35 U.S.C. § 112, first paragraph, and claims 1-3, 5-23, and 25-45 stand rejected under 35 U.S.C. § 103(a). Claims 4 and 24 have been cancelled. All rejections are being appealed.

(4) Status of Amendments

On March 20, 2006, a Final Office Action in the present Application was mailed to Applicants' Representative. In response, on June 13, 2006, the Applicants filed a Notice of Appeal in the present Application.

(5) Summary of Claimed Subject Matter

In accordance with one embodiment of the present invention, initially, an electronic device 110 waits for a data transfer request from a system user or other source (such as application software) to perform a data transfer operation using selected transfer data. In certain embodiments, the electronic device 110 may be implemented as a digital camera device, and the transfer data may include captured digital image data.

If the electronic device 110 receives a data transfer request, then a transfer manager 218 from the electronic device 110 may preferably determine a transfer data size value 618 corresponding to the specific transfer data for the requested data transfer operation. In addition, a bandwidth monitor 412 from the transfer manager 218 may preferably determine the current bandwidth (or transfer speed value 622) for the communication link between the electronic device 110 and a particular destination device 724 for the proposed data transfer operation.

A calculation module 416 from the transfer manager 218 may then preferably calculate a transfer time value 626 for the proposed data transfer operation. The transfer manager 218 may determine the foregoing transfer time value 626 using any appropriate technique. For example, the transfer manager 218 may utilize the previously-determined transfer data size value 618 and transfer speed value 622 to determine a transfer time value.

A user interface module 320 and a display manager 324 from the electronic device 110 may then preferably access various transfer parameters 428 from a

local memory, and responsively display the transfer parameters 428 for viewing by a system user. The transfer parameters 428 preferably may include the transfer data size value 618, the transfer speed value 622, and the transfer time value 626 discussed above.

Next, the system user may determine whether the displayed transfer parameters 428 (in particular, the transfer time value 626) are acceptable under current circumstances. If the displayed transfer parameters 428 are acceptable to the system user, then the electronic device 110 may preferably perform the proposed data transfer operation after receiving an authorization from the system user.

However, if the displayed transfer parameters 428 are not acceptable to the system user, then the electronic device 110 may preferably display various transfer options 630 for viewing by the system user. The system user may then interactively utilize the displayed transfer options 630 to manipulate the transfer data for an optimal performance of the data transfer operation. The present invention may then preferably return to recalculate and display updated transfer parameters 428 until the system user accepts the current updated transfer parameters 428 and authorizes the proposed data transfer operation.

Independent claims 21 and 42 recite “transferring data from a source device to a destination device.” Claim 1 similarly recites “a source device for providing transfer data to a destination device.” In addition, claim 43 recites “means for transferring data from a source device to a destination device.” The

foregoing subject matter is discussed in the Specification, for example, at page 11, line 29, through page 13, line 13 (FIG. 5).

Independent claims 21 and 42 further recite “determining a transfer duration.” Claim 1 similarly recites “a transfer manager configured to determine a transfer duration.” In addition, claim 43 recites “means for determining a transfer duration.” The foregoing subject matter is discussed in the Specification, for example, at page 10, line 20, through page 11, line 2 (see FIG. 4). Independent claims 1, 21, 42, and 43 still further recite “interactively managing said data transfer operation.” The foregoing subject matter is discussed in the Specification, for example, at page 15, line 13, through page 17, line 3 (FIG. 7).

(6) Grounds Of Rejection To Be Reviewed Upon Appeal

- I. Claim 41 stands rejected under 35 U.S.C. § 112, First Paragraph.
- II. Claims 1-3, 5-9, 21-23, 25-29, and 42-45 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Application No. 2003/0037158 to Yano et al. (hereafter Yano) in view of U.S. Patent Application No. 2001/0010059 to Burman et al. (hereafter Burman), and further in view of U.S. Patent No. 6,065,059 to Shieh et al. (hereafter Shieh).
- III. Claims 10-11 and 30-31 stand rejected under 35 U.S.C. § 103 as being unpatentable over Yano, Burman and Shieh, and further in view of U.S. Patent No. 5,774,583 to Sasaki et al. (hereafter Sasaki).

IV. Claims 12-19 and 32-39 stand rejected under 35 U.S.C. § 103 as being unpatentable over Yano, Burman, Shieh, and Sasaki, and further in view of JP Patent Application No. 09-060776 to Norio et al. (hereafter Norio).

V. Claims 20 and 40 stand rejected under 35 U.S.C. § 103 as being unpatentable over Yano, Burman, Shieh, and further in view of U.S. Patent No. 6,078,919 to Ginzburg et al. (hereafter Ginzburg).

VI. Claim 41 stands rejected under 35 U.S.C. § 103 as being unpatentable over Yano, Burman, Shieh, and further in view of U.S. Patent No. 6,512,778 to Jones et al. (hereafter Jones).

(7) Argument

I. 35 U.S.C. § 112, First Paragraph

On page 5 of the Final Office Action, the Examiner indicates that claim 44 is rejected as failing to comply with the enablement requirement. In particular, the Examiner states that “*Applicant failed to specify how a source device implemented as a stand-alone camera can perform data transfer.*” Applicants respectfully traverse.

On page 7, lines 3-7, of the Specification, Applicants explicitly state that “*electronic device 110 may be effectively implemented as an electronic still camera, an electronic video camera, a personal digital assistant (PDA) device, an electronic scanner device, a cellular telephone, or a portable electronic data capture device.*” Applicants submit that the foregoing portable embodiments of the electronic



device 110 typically perform their core functionalities as stand-alone devices. For example, an electronic still camera is typically utilized to capture image data as a stand-alone device that functions without the aid or cooperation of other devices.

With regard to the Examiner's statement that Applicants' Specification "failed to specify how a source device implemented as a stand-alone camera can perform data transfer," Applicants respectfully point to the discussion of FIG. 5 found in the Specification, on page 11, line 20 to page 13, line 8. This section of the Specification discusses various types of I/O interface capabilities that the "stand-alone still camera" may utilize to temporarily connect to a data destination for transferring image data.

For example, FIG. 5 discloses a network connection and wireless communications as types of potential data transfer paths. Applicants therefore submit that the Specification clearly does "specify how a source device implemented as a stand-alone camera can perform data transfer." In view of the foregoing remarks, Applicants believe that the Examiner's rejection of claim 44 is improper. Applicants therefore respectfully request reconsideration and withdrawal of the rejection of claim 44 under 35 U.S.C. §112, first paragraph.

## II. 35 U.S.C. §103

On page 6 of the Final Office Action, the Examiner rejects claims 1-3, 5-9, 21-23, 25-29, and 42-45 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Application No. 2003/0037158 to Yano et al. (hereafter Yano) in

view of U.S. Patent Application No. 2001/0010059 to Burman et al. (hereafter Burman), and further in view of U.S. Patent No. 6,065,059 to Shieh et al. (hereafter Shieh). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

(A). Claims 1, 2, 3, 6, 9, 21, 22, 23, 26, 29, and 42

Regarding the Examiner's rejection of independent claims 1, 21, and 42, Applicants submit that these claims each recite limitations that are not taught or suggested either by the cited references, or by the Examiner's citations thereto. For example, claims 1, 21, and 42 recite "*said transfer manager*

*providing transfer options on a user interface of said source device, said system user interactively manipulating said transfer data using said transfer options to change said transfer duration of said data transfer operation into an acceptable time period under current transfer conditions.”*

The Examiner cites a primary reference to Yano in support of the foregoing rejections. Yano teaches a generic “data communication” method. However, Yano only teaches adjusting a “*transfer rate*” to optimize data transfers from a source to a destination based upon the current volume of transfer data that is still in transit (see paragraph 007). However, Applicants submit that Yano nowhere discloses “*said system user manipulating said transfer data using said transfer options to change said transfer duration . . . ,*” as claimed by Applicants (emphasis added). Applicant further submits that Yano fails to disclose “*said transfer manager being integral to said source device,*” as claimed by Applicants.

The Examiner concedes that “Yano fails to teach determining a transfer duration . . . .” Applicants concur. The Examiner then points to Burman to purportedly remedy the foregoing defects. Burman teaches a “server” of a computer network that pushes information to a network device (destination) at the request of the network device (see Abstract). The data flow of Burman is therefore from server to device and is initiated by the destination device. In contrast, Applicants claim a source “digital camera device” that utilizes an integral “transfer manager” to initiate and control a transfer of image data to a “destination device” that may be implemented as an image station website.

Applicants submit that their claimed “digital camera device” is not analogous to the “server” taught by Burman. Applicants also maintain that Burman teaches a data flow that is directly opposite from the data flow from camera to website as disclosed and claimed by Applicants. In addition, Applicants claim a data transfer that is initiated and controlled by the source device (digital camera). Burman teaches a “pull” operation, while Applicants teach a “push” operation. Applicants therefore submit that Burman teaches away from their claimed invention. A prior art reference which teaches away from the presently claimed invention is “strong evidence of nonobviousness.” In re Hedges, 783 F.2d 1038, 228 U.S.P.Q. 2d 685 (Fed. Cir. 1987).

In addition, the Examiner points to Shieh to further support the rejection of claims 1-3, 5-9, 21-23, 25-29, and 42-45. Shieh teaches providing data from a server to a requesting client, subject to certain “established limits” (see column 2, lines 6-13). Therefore, as in the Burman reference, Shieh teaches a pull operation, while Applicants disclose a push operation. In particular, Applicants claim a data transfer that is initiated and controlled by the source device (digital camera).

Applicants therefore submit that Shieh also teaches away from their claimed invention. As stated previously, a prior art reference which teaches away from the presently claimed invention is “strong evidence of nonobviousness.” In re Hedges, 783 F.2d 1038, 228 U.S.P.Q. 2d 685 (Fed. Cir. 1987). Applicants respectfully submit that since Burman and Shieh both teach

away from Applicants' invention, as discussed above, the combination of Yano, Burman, and Shieh could not possibly result in Applicants' invention.

Furthermore, as discussed above, Applicants submit that none of the cited references disclose the limitations of "said system user manipulating said transfer data using said transfer options to change said transfer duration . . . ,"  
as claimed by Applicants.

Regarding the Examiner's rejection of dependent claims 2, 3, 6, 9, 22, 23, 26, and 29, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 2, 3, 6, 9, 22, 23, 26, and 29.

(B). Independent Claim 43

With regard to claim 43, "means-plus-function" language is utilized to recite elements and functionality similar to those recited in claims 1 and 21 which are discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 43. In addition, the Courts have frequently held that "means-plus-function" language, such as that of claim 43, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure*,

*material or acts described in the specification, and equivalents thereof.*

Applicants respectfully submit that, in light of the substantial differences between the teachings of the cited references and Applicants' invention as disclosed in the Specification, claim 43 is therefore not anticipated or made obvious.

(C).           Dependent Claims 5 and 25

Regarding the Examiner's rejection of dependent claims 5 and 25, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 5 and 25 so that these claims may issue in a timely manner.

With further regard to the rejections of claims 5 and 25, the Examiner cites page 4, paragraph 0035, of Burman in support of these rejections. Applicants respectfully traverse. In particular, Applicants submit that page 4, paragraph 0035, of Burman nowhere discloses a "data size value", an "option manager," or a "data editor," as claimed by Applicants. For at least the foregoing reasons, Applicants submit that the rejections under 35 U.S.C. §103(a) are improper.

(D). Dependent Claims 7 and 27

Regarding the Examiner's rejection of dependent claims 7 and 27, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 7 and 27 so that these claims may issue in a timely manner.

With further regard to the rejections of claims 7 and 27, the Examiner cites Burman in support of these rejections. In particular, the Examiner vaguely states "see page 9" for support. Applicants respectfully traverse. In particular, Applicants submit that nowhere on "page 9" does Burman disclose any sort of "user interface" that displays the various specific fields that are explicitly claimed by Applicants. For at least the foregoing reasons, Applicants submit that the rejections under 35 U.S.C. §103(a) are improper.

(E). Dependent Claims 8 and 28

Regarding the Examiner's rejection of dependent claims 8 and 28, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations

of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 8 and 28.

With further regard to the rejections of claims 8 and 28, the Examiner cites Burman in support of these rejections. In particular, the Examiner vaguely states “see page 4” for support. Applicants respectfully traverse. In particular, Applicants submit that nowhere on “page 4” does Burman disclose any type of transfer option fields that include “*a perform transfer option, a cancel transfer option, a postpone transfer option, a change transfer-mode option, and an alter transfer-data option, said alter transfer-data option including a reduce data-size option, an increase data-size option, a crop image option, a reduce image-resolution option, an increase image-resolution option, and a compress data option,*” as explicitly claimed by Applicants.

Applicants further submit that none of the cited references disclose the utilization of transfer option fields that are implemented in any manner that is similar to those techniques disclosed and claimed by Applicants. For at least the foregoing reasons, Applicants submit that the rejections under 35 U.S.C. §103(a) are improper.

(F). Dependent Claims 44

Regarding the Examiner’s rejection of dependent claim 4, for at least the



reason that this claim is dependent from an independent claim whose limitations are not identically taught or suggested, the limitations of dependent claim 44, when viewed through or in combination with the limitations of the independent claim, is also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claim 44.

With further regard to the rejection of claim 44, the Examiner cites page 2, paragraph 0011, of Yano in support of these rejections. However, there appears to be no such paragraph numbered as paragraph 0011 to be found on page 2 of Yano. Applicants therefore submit that they are unable to adequately respond to the Examiner's comments, and therefore the rejections under 35 U.S.C. §103(a) are improper.

(G).        Dependent Claim 45

Regarding the Examiner's rejection of dependent claim 45, for at least the reason that this claim is dependent from an independent claim whose limitations are not identically taught or suggested, the limitations of dependent claim 45, when viewed through or in combination with the limitations of the independent claim, is also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claim 45.

With further regard to the rejection of claim 45, the Examiner cites page 4, paragraph 35 of Burman in support of these rejections. Applicants respectfully traverse. In particular, Applicants submit that nowhere on page 4,

paragraph 35 does Burman disclose a “*system user repeatedly utilizing said user interface . . . for each instance of said data transfer operation,*” as explicitly claimed by Applicants. For at least the foregoing reasons, Applicants submit that the rejections under 35 U.S.C. §103(a) are improper.

For at least the foregoing reasons, the Applicants submit that claims 1-3, 5-9, 21-23, 25-29, and 42-45 are not unpatentable under 35 U.S.C. § 103 over the cited references. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 1-3, 5-9, 21-23, 25-29, and 42-45 under 35 U.S.C. § 103.

### III. Dependent Claims 10-11 and 30-31

On page 13 of the Office Action, the Examiner rejects claims 10-11 and 30-31 under 35 U.S.C. § 103 as being unpatentable over Yano, Burman and Shieh, and further in view of U.S. Patent No. 5,774,583 to Sasaki et al. (hereafter Sasaki). The Applicants respectfully traverse these rejections for at least the following reasons.

Regarding the Examiner’s rejection of dependent claims 10-11 and 30-31, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request

reconsideration and allowance of dependent claims 10-11 and 30-31 so that these claims may issue in a timely manner.

Furthermore, the Court of Appeals for the Federal Circuit has held that “obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination.” In re Geiger, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). As discussed above, Burman and Shieh teach away from Applicants’ claimed invention. Applicants therefore submit that the cited references could not suggest a combination that would result in Applicants’ invention, and therefore the obviousness rejections under 35 U.S.C §103 are improper.

For at least the foregoing reasons, the Applicants submit that claims 10-11 and 30-31 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 10-11 and 30-31 under 35 U.S.C. § 103.

#### IV. Dependent Claims 12-19 and 32-39

On page 15 of the Final Office Action, the Examiner rejects claims 12-19 and 32-39 under 35 U.S.C. § 103 as being unpatentable over Yano, Burman, Shieh, and Sasaki, and further in view of JP Patent Application No. 09-060776 to Norio et al. (hereafter Norio). The Applicant respectfully traverses these

rejections for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Applicants respectfully traverse the Examiner's assertion that modification of the device of Yano according to the teachings of Burman, Shieh, Sasaki and Norio would produce the claimed invention. Applicants submit that cited references fail to teach a substantial number of the claimed elements of the present invention. Furthermore, Applicants also submit that neither Yano, Burman, Shieh, Sasaki, nor Norio contain teachings for combining the cited references to produce the Applicants' claimed invention. The Applicants therefore respectfully submit that the obviousness rejections under 35 U.S.C §103 are improper.

Further regarding the Examiner's rejection of dependent claims 12-19 and 32-39, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

With further regard to the rejections of claims 18 and 38, the Examiner concedes that Yano fails to teach specifically claimed examples of “said transfer option fields” as claimed by Applicants. In particular, the Examiner states that Yano teaches that “*said transfer options include **at least one of** a perform transfer option, a cancel transfer option, a postpone transfer option, a change transfer-mode option, and an alter transfer-data option, said alter transfer-data option including a reduce data-size option, an increase data-size option, a crop image option, a reduce image-resolution option, an increase image-resolution option, and a compress data option.*”

Applicants respectfully submit that, in their Response to the initial Office Action, the language “*at least one of*” was removed from claims 18 and 38. Therefore, all of the foregoing “transfer options” are now recited collectively, and not in the alternative. Applicants submit that none of the cited references disclose “*a perform transfer option, a cancel transfer option, a postpone transfer option, a change transfer-mode option, and an alter transfer-data option, said alter transfer-data option including a reduce data-size option, an increase data-size option, a crop image option, a reduce image-resolution option, an increase image-resolution option, and a compress data option,*” as claimed by Applicants.

For at least the foregoing reasons, the Applicants submit that claims 12-19 and 32-39 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of

the rejections of claims 12-19 and 32-39 under 35 U.S.C. § 103.

V. Dependent Claims 20 and 40

On page 22 of the Final Office Action, the Examiner rejects claims 20 and 40 under 35 U.S.C. § 103 as being unpatentable over Yano, Burman, Shieh, and further in view of U.S. Patent No. 6,078,919 to Ginzburg et al. (hereafter Ginzburg). The Applicant respectfully traverses these rejections for at least the following reasons.

Regarding the Examiner's rejection of dependent claims 20 and 40, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 20 and 40 so that these claims may issue in a timely manner.

With further regard to the rejections of claims 20 and 40, the Examiner cites column 1, line 56 to column 2, line 16, of Ginzburg in support of these rejections. Applicants respectfully traverse. Column 1, line 56 to column 2, line 16, of Ginzburg teaches using "network parameters" to determine an optimal size of an internal buffer" (see column 2, lines 8-9). Applicants submit that column 1, line 56 to column 2, line 16, of Ginzburg nowhere discloses

“specifying an optimal value for said transfer duration,” or “automatically altering said transfer data using available transfer options” to attain the claimed optimal value, as recited by Applicants. For at least the foregoing reasons, Applicants submit that the rejections under 35 U.S.C. §103(a) are improper.

Also with regard to claims 20 and 40, the Examiner states that “[i]t would have been obvious to one in the ordinary skill in the art . . . to incorporate wherein said system user specifies an optimal value for said transfer duration. . . to deliver data over a wide variety of different types of network . . . .”

Applicants respectfully submit that a *general restatement of the advantages disclosed by the Applicants* deriving from implementation of the present invention cannot act as the required teaching or suggestion to combine cited references for a proper rejection under 35 U.S.C. § 103. Courts have repeatedly held that “it is impermissible . . . simply to engage in *hindsight reconstruction* of the claimed invention, using the Applicants’ structure as a template and selecting elements from references to fill in the gaps.” In re Gorman, 18 USPQ 1885, 1888 (CAFC 1991).

For at least the foregoing reasons, the Applicants submit that claims 20 and 40 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 20 and 40 under 35 U.S.C. § 103.

VI. Dependent Claim 41

On page 24 of the Office Action, the Examiner rejects claim 41 under 35 U.S.C. § 103 as being unpatentable over Yano, Burman, Shieh, and further in view of U.S. Patent No. 6,512,778 to Jones et al. (hereafter Jones). The Applicant respectfully traverses these rejections for at least the following reasons.

Applicant maintains that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claim 41, for at least the reasons that this claim is directly or indirectly dependent from a respective independent claim whose limitations are not identically taught or suggested, the limitations of this dependent claim, when viewed through or in combination with the limitations of the respective independent claim, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claim 41 so that this claim may issue in a timely manner.

In addition, the Examiner concedes that Yano, Burman, and Shieh "fails to



teach the step of entering a hint mode . . . .” Applicants concur. The Examiner then points to Jones to purportedly remedy these defects. As discussed above in conjunction with the rejections of claims 1 and 21, both Burman and Shieh teach away from Applicants’ invention. A prior art reference which teaches away from the presently claimed invention is “strong evidence of nonobviousness.” In re Hedges, 783 F.2d 1038, 228 U.S.P.Q. 2d 685 (Fed. Cir. 1987). Applicants submit that since Burman and Shieh teach away from Applicants’ invention, the combination of Jones and the other cited references would not result in Applicants’ invention.

For at least the foregoing reasons, the Applicants submit that claim 41 is not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claim 41 under 35 U.S.C. § 103.

SUMMARY

For all the foregoing reasons, it is earnestly and respectfully requested that the Board of Patent Appeals and Interferences reverse the rejections of claims 1-3, 5-23, and 25-45, so that the present Application may be allowed and pass to issue in a timely manner.

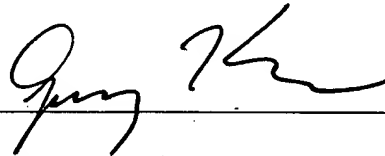
Respectfully Submitted,

Miyazaki et al.

Date: \_\_\_\_\_

8/8/06

By: \_\_\_\_\_



Gregory J. Koerner, Esq.  
Registration No. 38,519  
Redwood Patent Law  
1291 East Hillsdale Boulevard, Suite 205  
Foster City, California 94404  
(650) 358-4000

(8) Claims Appendix

1. A system for performing a data transfer operation, comprising:  
a source device for providing transfer data to a destination device  
through a communication path during said data transfer  
operation, said source device being implemented to include a  
digital camera device; and  
a transfer manager configured to determine a transfer duration for said  
data transfer operation, said transfer manager being integral to  
said source device for providing said transfer duration to a system  
user of said source device for interactively managing said data  
transfer operation, said transfer manager providing transfer  
options on a user interface of said source device, said system user  
interactively manipulating said transfer data using said transfer  
options to change said transfer duration of said data transfer  
operation into an acceptable time period under current transfer  
conditions.
2. The system of claim 1 wherein said source device is implemented to  
include said digital camera device with a processor, a display, one or more  
input/output interfaces, a memory, and a user interface.
3. The system of claim 1 wherein said transfer data includes digital image  
data, said communication path being coupled to an Internet network, said  
destination device including an image station website that is coupled to said  
Internet network.

5. The system of claim 1 wherein said transfer manager includes a bandwidth monitor for determining a current transfer speed for said data transfer operation, a calculation module for determining a data size value corresponding to said transfer data, and for calculating said transfer duration using said data size value and said current transfer speed, an option manager for controlling transfer options to interactively manipulate said transfer data, a data editor for altering said transfer data, and stored transfer parameters that include said data size value, said current transfer speed, and said transfer duration.

6. The system of claim 1 wherein said source device includes one or more input/output interfaces that communicate with at least one of a distributed computer network, an Internet network, a host computer, a cellular telephone network, one or more user interfaces, a wireless communications network, and one or more removable storage media devices.

7. The system of claim 1 wherein said source device includes said user interface presented by a user interface module and a display manager on a local display device, said user interface displaying a visual representation corresponding to said data transfer operation, said visual representation including a transfer data size field, a transfer speed field, a transfer time field, and one or more transfer option fields for interactive transfer optimizations performed by said system user.

8. The system of claim 7 wherein said one or more transfer option fields include a perform transfer option, a cancel transfer option, a postpone transfer option, a change transfer-mode option, and an alter transfer-data option, said alter transfer-data option including a reduce data-size option, an increase data-size option, a crop image option, a reduce image-resolution option, an increase image-resolution option, and a compress data option.

9. The system of claim 1 wherein at least one of said system user, a software program, and an electronic entity initially begins said data transfer procedure by issuing a data transfer request to said source device.

10. The system of claim 9 wherein a calculation module from said transfer manager responsively determines a data size value corresponding to said transfer data, said data size value being stored in transfer parameters of a local memory device.

11. The system of claim 10 wherein a bandwidth monitor from said transfer manager determines a transfer speed value for performing said data transfer procedure under current transfer conditions, said transfer speed value being stored in said transfer parameters of said local memory device.

12. The system of claim 11 wherein a transfer speed module of said communication path periodically provides a bandwidth value to said transfer manager to thereby indicate current bandwidth conditions for any data transfer operations through said communication path, said bandwidth monitor responsively converting said bandwidth value into said transfer speed value that is then stored into said transfer parameters in said local memory device.

13. The system of claim 11 wherein said source device transmits a bandwidth test packet to one of said communication path and said destination device, said one of said communication path and said destination device responsively returning an acknowledgement of said bandwidth test packet to source device, said bandwidth monitor of said transfer manager responsively calculating said transfer speed value based upon an elapsed test packet transfer time.

14. The system of claim 11 wherein said calculation module from said transfer module calculates a transfer time value corresponding to said transfer duration, said transfer time value being stored in said transfer parameters of said local memory device.

15. The system of claim 14 wherein said calculation module calculates said transfer time value according to a formula:

$$\text{Transfer Time Value} = \text{Data Size Value} / \text{Transfer Speed Value}$$

where said Transfer Time Value is an amount of time required to complete said data transfer operation in seconds, said Data Size Value is a size of said transfer data in bits, and said Transfer Speed Value is a bandwidth of said communication path for said data transfer operation in bits per second.

16. The system of claim 14 wherein said system user authorizes said source device to perform said data transfer operation whenever said transfer time value is acceptable under said current conditions.

17. The system of claim 14 wherein said system user interactively utilizes one or more transfer options that are presented by said source device on a user interface to thereby optimize said data transfer operation under said current conditions.

18. The system of claim 17 wherein said transfer options include a perform transfer option, a cancel transfer option, a postpone transfer option, a change transfer-mode option, and an alter transfer-data option, said alter transfer-data option including a reduce data-size option, an increase data-size option, a crop image option, a reduce image-resolution option, an increase image-resolution option, and a compress data option.

19. The system of claim 17 wherein said transfer manager repeatedly recalculates and displays said transfer parameters on said user interface to thereby allow said system user to optimize said data transfer operation under said current conditions.

20. The system of claim 1 wherein said system user specifies an optimal value for said transfer duration under current conditions, said transfer manager automatically altering said transfer data using available transfer options to thereby permit said source device to perform said data transfer operation using said optimal value for said transfer duration.

21. A method for performing a data transfer operation, comprising the steps of:

transferring data from a source device to a destination device through a communication path during said data transfer operation, said source device being implemented to include a digital camera device;

determining a transfer duration for said data transfer operation by using a transfer manager of said source device; and

providing said transfer duration to a system user of said source device for interactively managing said data transfer operation, said transfer manager providing transfer options on a user interface of said source device, said system user interactively manipulating said transfer data using said transfer options to change said transfer duration of said data transfer operation into an acceptable time period under current transfer conditions.

22. The method of claim 21 wherein said source device is implemented to include said digital camera device with a processor, a display, one or more input/output interfaces, a memory, and a user interface.

23. The method of claim 21 wherein said transfer data includes digital image data, said communication path being coupled to an Internet network, said destination device including an image station website that is coupled to said Internet network.



25. The method of claim 21 wherein said transfer manager includes a bandwidth monitor for determining a current transfer speed for said data transfer operation, a calculation module for determining a data size value corresponding to said transfer data, and for calculating said transfer duration using said data size value and said current transfer speed, an option manager for controlling transfer options to interactively manipulate said transfer data, a data editor for altering said transfer data, and stored transfer parameters that include said data size value, said current transfer speed, and said transfer duration.

26. The method of claim 21 wherein said source device includes one or more input/output interfaces that communicate with at least one of a distributed computer network, an Internet network, a host computer, a cellular telephone network, one or more user interfaces, a wireless communications network, and one or more removable storage media devices.

27. The method of claim 21 wherein said source device includes said user interface presented by a user interface module and a display manager on a local display device, said user interface displaying a visual representation corresponding to said data transfer operation, said visual representation including a transfer data size field, a transfer speed field, a transfer time field, and one or more transfer option fields for interactive transfer optimizations performed by said system user.

28. The method of claim 27 wherein said one or more transfer option fields include a perform transfer option, a cancel transfer option, a postpone transfer option, a change transfer-mode option, and an alter transfer-data option, said alter transfer-data option including a reduce data-size option, an increase data-size option, a crop image option, a reduce image-resolution option, an increase image-resolution option, and a compress data option.

29. The method of claim 21 wherein at least one of said system user, a software program, and an electronic entity initially begins said data transfer procedure by issuing a data transfer request to said source device.

30. The method of claim 29 wherein a calculation module from said transfer manager responsively determines a data size value corresponding to said transfer data, said data size value being stored in transfer parameters of a local memory device.

31. The method of claim 30 wherein a bandwidth monitor from said transfer manager determines a transfer speed value for performing said data transfer procedure under current transfer conditions, said transfer speed value being stored in said transfer parameters of said local memory device.

32. The method of claim 31 wherein a transfer speed module of said communication path periodically provides a bandwidth value to said transfer manager to thereby indicate current bandwidth conditions for any data transfer operations through said communication path, said bandwidth monitor responsively converting said bandwidth value into said transfer speed value that is then stored into said transfer parameters in said local memory device.

33. The method of claim 31 wherein said source device transmits a bandwidth test packet to one of said communication path and said destination device, said one of said communication path and said destination device responsively returning an acknowledgement of said bandwidth test packet to source device, said bandwidth monitor of said transfer manager responsively calculating said transfer speed value based upon an elapsed test packet transfer time.

34. The method of claim 31 wherein said calculation module from said transfer module calculates a transfer time value corresponding to said transfer duration, said transfer time value being stored in said transfer parameters of said local memory device.

35. The method of claim 34 wherein said calculation module calculates said transfer time value according to a formula:

$$\text{Transfer Time Value} = \text{Data Size Value} / \text{Transfer Speed Value}$$

where said Transfer Time Value is an amount of time required to complete said data transfer operation in seconds, said Data Size Value is a size of said transfer data in bits, and said Transfer Speed Value is a bandwidth of said communication path for said data transfer operation in bits per second.

36. The method of claim 34 wherein said system user authorizes said source device to perform said data transfer operation whenever said transfer time value is acceptable under said current conditions.

37. The method of claim 34 wherein said system user interactively utilizes one or more transfer options that are presented by said source device on a user interface to thereby optimize said data transfer operation under said current conditions.

38. The method of claim 37 wherein said transfer options include a perform transfer option, a cancel transfer option, a postpone transfer option, a change transfer-mode option, and an alter transfer-data option, said alter transfer-data option including a reduce data-size option, an increase data-size option, a crop image option, a reduce image-resolution option, an increase image-resolution option, and a compress data option.

39. The method of claim 37 wherein said transfer manager repeatedly recalculates and displays said transfer parameters on said user interface to thereby allow said system user to optimize said data transfer operation under said current conditions.

40. The method of claim 21 wherein said system user specifies an optimal value for said transfer duration under current conditions, said transfer manager automatically altering said transfer data using available transfer options to thereby permit said source device to perform said data transfer operation using said optimal value for said transfer duration.

41. The method of claim 21 further comprising the step of entering a hint mode wherein said transfer manager provides one or more transfer options for performing said data transfer operation, and wherein a hint subroutine responsively generates at least one of a transfer recommendation and a transfer explanation for said data transfer operation, said hint subroutine being activated by at least one of a system user action and an automatic initiation event from said source device.

42. A computer-readable medium comprising program instructions for transferring data by performing the steps of:

transferring data from a source device to a destination device through a communication path during said data transfer operation, said source device being implemented to include a digital camera device;

determining a transfer duration for said data transfer operation by using a transfer manager of said source device; and

providing said transfer duration to a system user of said source device for interactively managing said data transfer operation, said transfer manager providing transfer options on a user interface of said source device, said system user interactively manipulating said transfer data using said transfer options to change said transfer duration of said data transfer operation into an acceptable time period under current transfer conditions.

43. A system for performing a data transfer operation, comprising:  
means for transferring data from a source device to a destination device through a communication path during said data transfer operation, said source device being implemented to include a digital camera device;  
means for determining a transfer duration for said data transfer operation, said means for determining being coupled to said source device; and  
means for providing said transfer duration to a system user of said source device for interactively managing said data transfer operation, said means for determining providing transfer options on a user interface of said source device, said system user interactively manipulating said transfer data using said transfer options to change said transfer duration of said data transfer operation into an acceptable time period under current transfer conditions.
44. The method of claim 21 wherein said source device is implemented as a stand-alone digital still camera that performs said data transfer operations to transmit said transfer data to said destination device.
45. The method of claim 21 wherein system user repeatedly utilizes said user interface of said source device to evaluate said transfer duration for each instance of said data transfer operation before allowing said source device to transmit said transfer data to said destination device.

(9) Evidence Appendix: None.

(10) Related Proceedings Appendix: None.